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Applicant	: Raymond Kurzweil et al.	Art Unit	: 2173
Serial No.	: 09/703,828	Examiner	: Blain T. Basom
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Title	: POETRY SCREEN SAVER		

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APPEAL BRIEF ON BEHALF OF RAYMOND KURZWEIL ET AL..

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(1) Real Party In Interest

The real party in interest is Kurzweil CyberArt Technologies, Inc.

(2) Related Appeals and Interferences

Appellant is not aware of any appeals or interferences related to the above-identified patent application.

(3) Status of Claims

This is an appeal from the decision of the Primary Examiner in an Office Action dated September 23, 2005, rejecting claims 1-14, 16-29, 31 and 32. The claims have been twice rejected. Claims 15 and 30 were objected to as dependent on rejected base claims and were indicated as containing allowable subject matter. Claims 1-14, 16-29, 31 and 32 are the subject of this appeal. Appellant filed a Notice of Appeal on November 18, 2005.

(4) Status of Amendments

All amendments have been entered.

(v.) Summary of Claimed Subject Matter

Background

The invention is directed to generating poetry using a computer. Devices for generating poetry via a computer have been proposed which involve set slot grammars in which certain parts of speech that are provided in a list are selected for certain slots. [Specification page 1, lines 3-25].

Appellant's Invention

Claim 1

One aspect of Appellant's invention is set out in claim 1, as method of generating a computer-implemented poetry screen saver. "A user selects 46 an interface, specifically, a poetic

assistant interface 48 and/or a screen saver interface 50. The process generates 52 an original poem(s) from the author analysis model." [Specification page 4, lines 30-33].

Inventive features of claim 1 include loading an author analysis model. "The process generates 52 an original poem(s) from the author analysis model." [Specification page 4, lines 32-33]

Inventive features of claim 1 also include randomly selecting a seed word from the author analysis model. "A new word is received 134 from the user (e.g., via keyword input in a word processing program) or randomly generated by the process from an author analysis model. " [Specification page 12, lines 21 to 24]

Inventive features of claim 1 also include completing a poem based on the seed word using the author analysis model. "In summary, the process 30 (of FIG. 2) generates and stores a series of data structures for an author's poem in a data file. Each author poem has a data file containing linked data structures representing rhyme sets and words that precede and follow each individual word of each individual poem, i.e., 1-grams, bigrams, trigrams and quadrigrams. This datafile is used by the process to generate original poetry that may rhyme or not. As a user inputs a word via a word processing program, the process locates the user word in an appropriate author analysis model. Once the word is located in the author analysis model, the process 30 can generate a next word, can complete a line, and/or can complete a poem by looking at the 1-grams, bigrams, trigrams and quadrigrams for the user word. " [Specification page 11, line 39 to page 12, line 8]

Inventive features of claim 1 also include displaying the poem, as a screen saver, on an output device. "The new poetry is outputted 38 to a display, printed or stored on a storage device." [Specification page 2, line 25 to 26]

Claim 3

Another aspect of Appellant's invention is set out in claim 3, as an automatic composition system.

Inventive features of claim 3 include a central processing unit, a random access memory, a computer readable medium, a display unit. "FIG. 1 is a block diagram of a computer system storing a poetry generation process." [Specification page 2, lines 5 to 6]

Inventive features of claim 3 include a computer program product residing on the computer readable medium and executed by the central processor for automatically composing text based on a seed word that appears on the display unit during a screen saver mode. "Referring to FIG. 3, a process 40 to generate an original poem includes scanning 42 selections of poems by an author. The poems scanned are used to generate and store 44 an author analysis model. A user selects 46 an interface, specifically, a poetic assistant interface 48 and/or a screen saver interface 50. The process generates 52 an original poem(s) from the author analysis model. The original poem(s) is displayed 54 on the display unit, or stored on a suitable storage medium. The poem will have a similar style to the poem(s) originally analyzed and contained in the author analysis model, but will be original poetry generated by the process 30 (of FIG. 2)." [Specification page 3, line 27 to page 4 line 3].

Claim 11

Another aspect of Appellant's invention is set out in claim 11, as a method.

Inventive features of claim 11 include automatically composing text based on a user input word that appears on a display unit of a system during a screen saver mode entered into by the system.. This feature finds support at least as the analogous feature of claim 3.

Claim 23

Another aspect of Appellant's invention is set out in claim 23 as a computer program product residing on a computer readable medium for generating a computer-implemented poetry screen saver.

Inventive features of claim 23 include instructions to load an author analysis model. This feature finds support at least as the analogous feature of claim 1.

Inventive features of claim 23 include instructions to randomly selecting a seed word from the author analysis model. This feature finds support at least as the analogous feature of claim 1.

Inventive features of claim 23 include instructions to complete a poem based on the seed word. This feature finds support at least as the analogous feature of claim 1.

Inventive features of claim 23 include instructions to display the poem, as a screen saver, on an output device. This feature finds support at least as the analogous feature of claim 1.

Claim 27

Another aspect of Appellant's invention is set out in claim 27, as a computer program product residing on a computer readable medium.

Inventive features of claim 27 include instructions to automatically compose text, based on a user input word, that appears on a display unit of a system during a screen saver mode entered into by the system. This feature finds support at least as the analogous feature of claim 3.

(vi.) Grounds of Rejection to be Reviewed on Appeal

(1) Claim 21 stands rejected under 35 U.S.C. 112, second paragraph

(2) Claims 1-4, 6-15, 17-23, 25-30 and 32 stand rejected under 35 U.S.C. 103(a) as being unpatentable over "The Angelic Beat Haiku Machine" by Zasa, over Minkler, U.S. Patent 4,712,174, and also over the Microsoft Windows NT 4.0 Operating System (Gavron).

(3) Claims 5, 16, 24 and 31 stand rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Zasa, Minkler and Gavron, and also over U.S. Patent 6,091,411, Straub et al.

(7) Argument

Obviousness

"It is well established that the burden is on the PTO to establish a prima facie showing of obviousness, *In re Fritsch*, 972 F.2d. 1260, 23 U.S.P.Q.2d 1780 (C.C.P.A., 1972)."

"It is well established that there must be some logical reason apparent from the evidence or record to justify combination or modification of references. *In re Regal*, 526 F.2d 1399, 188 U.S.P.Q.2d 136 (C.C.P.A. 1975). In addition, even if all of the elements of claims are disclosed in various prior art references, the claimed invention taken as a whole cannot be said to be obvious without some reason given in the prior art why one of ordinary skill in the art would

have been prompted to combine the teachings of the references to arrive at the claimed invention. Id. Even if the cited references show the various elements suggested by the Examiner in order to support a conclusion that it would have been obvious to combine the cited references, the references must either expressly or impliedly suggest the claimed combination or the Examiner must present a convincing line of reasoning as to why one skilled in the art would have found the claimed invention obvious in light of the teachings of the references. *Ex Parte Clapp*, 227 U.S.P.Q.2d 972, 973 (Board. Pat. App. & Inf. 1985)."

"The mere fact that the prior art could be so modified would not have made the modification obvious unless the prior art suggested the desirability of the modification." *In re Gordon*, 221 U.S.P.Q. 1125, 1127 (Fed. Cir. 1984).

> Although the Commissioner suggests that [the structure in the primary prior art reference] could readily be modified to form the [claimed] structure, "[t]he mere fact that the prior art could be so modified would not have made the modification obvious unless the prior art suggested the desirability of the modification." *In re Laskowski*, 10 U.S.P.Q. 2d 1397, 1398 (Fed. Cir. 1989).

"The claimed invention must be considered as a whole, and the question is whether there is something in the prior art as a whole to suggest the desirability, and thus the obviousness, of making the combination." *Lindemann Maschinenfabrik GMBH v. American Hoist & Derrick*, 221 U.S.P.Q. 481, 488 (Fed. Cir. 1984).

> Obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching or suggestion supporting the combination. Under Section 103, teachings of references can be combined only if there is some suggestion or incentive to do so. *ACS Hospital Systems, Inc. v. Montefiore Hospital*, 221 U.S.P.Q. 929, 933 (Fed. Cir. 1984).

"The critical inquiry is whether 'there is something in the prior art as a whole to suggest the desirability, and thus the obviousness, of making the combination.'" *Fromson v. Advance Offset Plate, Inc.*, 225 U.S.P.Q. 26, 31 (Fed. Cir. 1985).

(1) Claim 21 was properly rejected.

Appellant in preparation for this brief noticed that there is a lack of antecedent basis in claim 21 for "data structures." However, Appellant is also of the opinion that the lack of antecedent basis is not of the extent that the Board cannot ascertain the basis of the patentability of claim 21 and any claims depending from claim 21. Appellant will amend claim 21 upon remand of the case to the examiner to make claim 21 depend from claim 19 and thus provide antecedent basis for "data structures."

(2) Claims 1-4, 6-15, 17-23, 25-30 and 32 are patentable over "The Angelic Beat Haiku Machine", Zasa, over Minkler, U.S. Patent 4,712,174, and also over the Microsoft Windows NT 4.0 Operating System (Gavron).

a.) The primary reference is non-enabling to teach any of the features of Appellant's claimed invention.

Appellant contends that the primary reference Zasa neither describes nor enables any of the teachings relied on by the examiner. Appellant contends that Zasa is an improper reference for what the examiner attempts to use Zasa to teach.

It is well settled that the written description requirement is separate and distinct from the enablement requirement. *In re Barker*, 559 F.2d 588, 194 USPQ 470 (CCPA 1977), cert. denied, 434 U.S. 1064 (1978); *Vas-Cath, Inc. v. Mahurkar*, 935 F.2d 1555, 1562, 19 USPQ2d 1111, 1115 (Fed. Cir. 1991). The level of disclosure required within a reference to make it an "enabling disclosure" is the same no matter what type of prior art is at issue. It does not matter whether the prior art reference is a U.S. patent, foreign patent, a printed publication or other. "Even if a reference discloses an inoperative device, it is prior art for all that it teaches." *Beckman Instruments v. LKB Produkter AB*, 892 F.2d 1547, 1551, 13 USPQ2d 1301, 1304 (Fed. Cir. 1989). Therefore, "a non-enabling reference may qualify as prior art for the purpose of determining obviousness under 35 U.S.C. 103." *Symbol Techs. Inc. v. Opticon Inc.*, 935 F.2d

1569, 1578, 19 USPQ2d 1241, 1247 (Fed. Cir. 1991). Pictures and drawings may be sufficiently enabling to put the public in the possession of the article pictured. Therefore, such an enabling picture may be used to reject claims to the article. However, the picture must show all the claimed structural features and how they are put together. *Jockmus v. Leviton*, 28 F.2d 812 (2d Cir. 1928).

Appellant is presented with a rejection of claims directed to a technique that relies on the use of an author analysis model. Appellant devotes several pages in the specification to what the author analysis model is and provides an explanation of how one of ordinary skill in the art could implement such a model. The examiner on the other hand relies on Zasa as the primary reference, which states:

> **Angelic beat haiku machine Page 1 of 1**
>
> **I conceived of The Angelic Beat Haiku Machine after reading an essay of Brian Eno's in which he speculates on the future role of artists working in the new electronic media. Eno rejects the term interactive, finding it too static and limiting, preferring instead unfinished. In this scheme, the artist produces unfinished artistic materials that participants--who used to be passive listeners and readers and viewers--play around with to create finished artworks. I was interested in how this approach blurs the traditional boundaries between artist and audience, and wondered how it might be applied to poetry.**
>
> **There are other haiku generators out there, but they usually just pump out some poetry at random and then stop. What makes this one different is the fact that you can regenerate each line as many times as you want and then you decide when it is finished, so your own personal artistic judgment comes into play.**
>
> **My role was to provide raw materials that I felt might produce interesting results. So I built the templates, which were more complicated to design than you might think, and mindfully populated (and weighted) the universe of words that the computer draws from.**
>
> **I chose the "Beat" theme because I thought the results might resemble Jack Kerouac's stream-of-consciousness poetry (in a funny way they almost do), and because I like Kerouac's formulation for the American Haiku: don't count syllables, just write a short, vivid, three-line poem (also, building a generator that made strict 17-syllable haiku would have been considerably more difficult.) I tried to skew the database to give the haiku a "Beat" flavor by stressing the words that the Beat Poets favored -- night, road, angel, eternity, tea, etc.**
>
> **Jay Zasa**

Appellant contends that Zasa is devoid of any teachings relevant to any of the claimed features of Appellant's claims and is only enabling to imply the existence of other "haiku generators" that usually just pumped out some poetry at random and then stop. Zasa mentions a different haiku generator that can regenerate each line as many times as desired. Zasa mentions:

"templates, which were more complicated to design than you might think, and mindfully populates (and weights) the universe of words that the computer draws from.

However, Zasa leaves the reader to speculate as to what are the templates; how are the template used; how the software uses the templates; how the software constructs poetry; and how to actually construct the templates, among other things. Zasa leaves the reader to guess how to weigh the words in the universe of words; determine what type of structure to use to store the weights; and how to use the weights in conjunction with the template.

In short, Zasa fails to describe any embodiment and fails to enable one of ordinary skill in the art to produce what Zasa mentions. In order to build the system mentioned by Zasa, would require undue experimentation and indeed invention on the part of one or ordinary skill in the art. It is improper for the examiner to use Zasa to teach any of the features of Appellant's claims.

Therefore, while Zasa is available to the examiner in the context of an obviousness rejection, it is only available for what it teaches one of ordinary skill in the art, namely the existence of other "haiku generators. Zasa however is devoid of any technical teachings that could enable one of ordinary skill in art to build what Zasa mentions.

It is Appellant's contention therefore that Zasa neither describes nor enables any of the features that the examiner says Zasa teaches. Therefore, Zasa in combination with the other references fails to render the claims obvious.

b.) Assuming that the primary reference is enabling, the combination of that reference with the other references fails to suggest the features of Appellant's claimed invention.

Claims 23 and 25

For the purposes of this appeal only, claims 23 and 25 stand or fall together. Claim 23 is representative of this group of claims.

Claim 23 is directed to computer program product residing on a computer readable medium for generating a computer-implemented poetry screen saver. Claim 23 recites

instructions to cause a computer to load an author analysis model, randomly select a seed word from the author analysis model and complete a poem based on the seed word. Claim 23 also includes instructions to display the poem, as a screen saver, on an output device. Appellant contends that any combination of "The Angelic Beat Haiku Machine" (Zasa), Minkler, U.S. Patent 4,712,174, and Microsoft Windows NT 4.0 Operating System (Gavron) does not suggest at least these features of claim 23.

The examiner contends that the feature of an author analysis model is taught by Zasa. Specifically the examiner contends that:

> **With respect to claim 1, Zasa presents "The Angelic Beat Haiku Machine" which is a software program that generates original haikus. According to Zasa,**
>
> > **My role was to provide raw materials that I felt might produce interesting results. So I built the templates, which were more complicated to design than you might think, and mindfully populated (and weighted) the universe of words that the computer draws from.**
> >
> > **I chose the "Beat" theme because I thought the results might resemble Jack Kerouac 's formulation for the American Haiku: don't count syllables, just write a short, vivid, three-line poem (also, building a generator that made strict 17-syllable haiku would have been considerably more difficult.) I tried to skew the database to give the haiku a "Beat "flavor by stressing the words that the Beat Poets favored - night, road, angel, eternity, tea, etc.**
>
> **Thus Zasa describes templates, whereby it is interpreted that words from a "universe of words" are input into these templates to generate haikus. The templates and the universe of words are skewed such that the resulting haikus resemble the poems of Jack Kerouac and other Beat Poets. Consequently, it is understood that when "The Angelic Beat Haiku Machine" is loaded to be executed, an author analysis model is also loaded, wherein this author analysis model comprises this universe of words and these templates, which are created from an analysis of Beat poem authors, and which provide resulting haikus that have a "Beat flavor."**

Appellant contends that the teachings of Zasa fails to describe or suggest instructions to load an author analysis model. The examiner in his reasoning furnishes teachings to enable Zasa by arguing that he "interprets" Zasa to teach that words from a "universe of words" are input into these templates to generate haikus. Zasa however does not teach that "the universe of words are inputted into these templates." Zasa never mentions what the templates are for or how they are used.

Zasa mentions templates and a universe of words. Zasa never describes what the templates are and merely describes manually selecting weightings and words from what Zasa "thinks" the Beat flavor is. The examiner urges that when "The Angelic Beat Haiku Machine" is loaded to be executed, an author analysis model is also loaded, wherein this author analysis model comprises this universe of words and these templates.

While Zasa clearly mentions that he wants the results to "resemble" Jack Kerouac 's formulation for the American Haiku, Zasa teaches to accomplish this not by a model, but by applying his, namely, Zasa's own understanding of what that formulation was. In contrast, Zasa teaches away from building a model. Zasa states that: "building a generator ... would have been considerably more difficult." Zasa mentions: "to skew the database to give the haiku a "Beat "flavor by stressing the words that the Beat Poets favored - night, road, angel, eternity, tea, etc." However in no sense do these statements teach or suggest instructions to "load an author analysis model."

In claim 23, an author analysis model is used to generate a poem based on a seed word. However, Zasa fails to describe any technique for generating a poem based on a seed word and even fails to describe how the poem is generated base on weights mentioned by Zasa. To this point the Examiner, in the final office action, states that:

> Since the haikus are created from templates, whereby it is interpreted that words from a universe of words are input into these templates, it is understood that randomly creating such haikus implies randomly selecting words from the universe of words and then inputting these randomly selected words into the templates. Zasa, however, does not explicitly teach randomly selecting a seed word, whereby as expressed in claim 1, a poem is completed based on this seed word using the author analysis model. Additionally, Zasa does not explicitly teach displaying this poem, as a screen saver, on an output device, as is recited in claim.

Again, the examiner in his reasoning needs to furnish teachings to enable Zasa. However, there is nothing in Zasa that: "implies randomly selecting works from the universe of words and then randomly imputing these randomly selected words in the templates." Zasa never mentions what happens with the templates or to what purpose the templates are put. Zasa

mentions that other haiku generators pump out poetry at random, but Zasa teaches away from them.

The examiner however clearly acknowledges that Zasa does not explicitly teach instructions to randomly select a seed word or to complete the poem based on this seed word. The examiner relies on Minkler to disclose instructions to randomly select a seed word and cites Col. 2, lines 1-31. However, Minkler like Zasa does not teach a seed word. Rather, Minkler discusses at the relied on passages:

> **It is therefore, an object of the invention to provide a pseudorandom computer printout of text in response to a plurality of input data items related to the intended recipient and/or sender of that text.**
>
> **It is another object of the invention to provide a pseudorandom computer printout of poetry in response to a plurality of input data items related to the intended recipient and/or sender of the poetry.**
>
> **It is still another object of the invention to personalize a computer generated pseudorandom text output by means of an algorithm which selects sections of text which are related to the personal identification, residence and personality traits of the intended recipient.**
>
> **It is yet another object of the invention to compile pseudorandom poetry under the control of a computer, such poetry being related to identity and at least one personality trait of the intended recipient and such poetry being selected to accommodate the gender of the intended recipient and variations in the number of syllables in the name of the recipient.**
>
> **It is a still further object of the invention to provide a pseudorandom computer printout of text which is related to the identity, gender, message or occasion, and at least one personality trait of an intended recipient of that text, whereupon, when a limited number of successive commands are given to the computer to produce such text, a new combination of text is produced even when the input data provided are the same.**

Minkler at most suggests to provide a pseudorandom printout of poetry that is related to the identity, gender or some personality trait of the user. It does not teach nor suggest "randomly select a seed word from the author analysis model" or completing a poem based on the seed word using the author analysis model. Minkler describes to select for instance, poetry "related to identity and at least one personality trait of the intended recipient and such poetry being selected to accommodate the gender of the intended recipient and variations in the number of syllables in the name of the recipient." Therefore the combination of Zasa and Minkler fails to suggest these instructions.

Zasa and Minkler are directed to different needs obviating any suggestion to combine their teachings.

Zasa teaches a hard-coded template and "skew[s] the database to give the haiku a "Beat "flavor by stressing the words that the Beat Poets favored ... ." Minkler on the other hand teaches to select poetry according to the personality traits of a recipient. Minkler, like Zasa does not address or use an author analysis model. Zasa and Minkler address different needs, therefore there is no motivation to combine their teachings and any purported combination of the teachings of Zasa and Minkler would not lead to the features of claim 23. Rather, such a purported combination would provide a personalization of the templates of Zasa with personality traits of the recipient, as taught by Minkler, rather than to randomly select a seed word from the author analysis model and complete a poem based on the seed word , as claimed in claim 23.

Even if Zasa and Minkler were combined, there is no suggestion to combine those references with Gavron. Additionally, the combination of these references fails to teach the features of claim 23.

Gavron does not cure any of the deficiencies of the primary references, and does not explicitly suggest instructions to display the poem, as a screen saver, on an output device, as is recited in the claim 23. Gavron merely gives instructions on how a user could change screen savers in the Windows NT operating system. However, claim 23 requires displaying the poem.

In summary, the alleged combination neither discloses nor suggests at least instructions to load an author analysis model, randomly select a seed word from the author analysis model, complete a poem based on the seed word using the author analysis model, and display the poem, as a screen saver, on an output device.

Claims 1, 2, 6, 10 and 18

For the purposes of this appeal only, claims 1, 2, 6, 10 and 18 stand or fall together. Claim 1 is representative of this group of claims.

Claim 1 is generally allowable for similar reasons argued for claim 23. In addition, claim 1 includes the explicit limitation, not found in claim 23, of "completing a poem based on the

seed word using the author analysis model." Zasa mentions a template of un-determined function and structure and a pre-populated database skewed with words that Zasa "thought" would be representative of the Beat flavor. However, the Beat flavor is a *genre*. Zasa did not model a personality, e.g., Jack Kerouac. Zasa clearly states that: "I tried to skew the database to give the haiku a "Beat "flavor by stressing the words that the Beat Poets favored - night, road, angel, eternity, tea, etc." thus, Zasa in combination with the other references also does not teach a seed word that in combination with the author analysis model is used to complete the poem.

Claims 3, 4, 11, 12, 17 and 27

For the purposes of this appeal only, claims 3, 4, 11, 12, 17 and 27 stand or fall together. Claim 27 is representative of this group of claims.

Claim 27 is directed to a computer program product. A novel feature of claim 27 includes instructions to automatically compose text based on a seed word that appears on the display unit during a screen saver mode.

In rejecting this claim, the examiner states in part:

> **With respect to claim 3, it is understood that "... It is further understood that "The Angelic Beat Haiku Machine" of Zasa, as modified by the teachings of Minkler and Gavron, would reside on the computer readable medium and be executed by the central processor, as common in the art. As shown above, this "Angelic Beat Haiku Machine" automatically composes text based on a seed word, in the form of a poem, which appears on the display unit during screen saver mode. ..."**

Appellant has shown that neither Zasa (as admitted by the examiner) nor Minkler teach poetry composition or an automatic system for composing text based on the use of a seed word. While Gavron describes instructions for the Windows NT screen saver, Gavron also fails to describe how one of ordinary skill in the art would produce an automated composition system based on Gavron's instructions to operate the Windows NT graphical user interface for the various screen saver modes. It is well understood that in the Windows NT operating system one of the screen saver modes allows a user to input text, however Gavron does not teach any mode in which a computer program product executed by the central processor automatically composes text based on a seed word that appears on the display unit during a screen saver mode.

Claims 7, 8, 9, 22, 26 and 32

For the purposes of this appeal only, claims 7, 8, 9, 22, 26 and 32 stand or fall together. Claim 26 is representative of this group of claims.

Claim 26 further limits claim 1 and recites the feature of selecting an interface that includes a screen saver interface option to select from available poet personalities.

In rejecting claim 26, the examiner stated:

> **Referring to claims 7, 8, 9, 12, 18, 22, 26, and 32, "The Angelic Beat Haiku Machine" of Zasa composes haikus that resemble poems from Jack Kerouac and other Beat Poets by following the structure of the Beat Poets' haikus -by not counting syllables, and by stressing words that these Beat Poets favored, as is shown above. Consequently, it is understood that one of ordinary skill in the art may apply these teachings to other forms of poetry, or even a specific poet personality, by using the structure and the words of the poems of the specific poet personality. As Windows NT 4.0 includes a screen saver interface option which provides a plurality of screen savers for users to chose from (see "step 3" on page 13 1 of Gavron), it is understood that the "The Angelic Beat Haiku Machine" of Zasa and Minkler, as modified by the teachings of Gavron, may include screen savers from a plurality of poet personalities, and would therefore include a screen saver interface option to select from these poet personalities to generate the poems for the screen savers.**

The examiner urges that Zasa teaches poet personalities by "stressing the words that these Beat Poets favored." The examiner argues that: "it is understood that one of ordinary skill in the art may apply these teachings to other forms of poetry, or even a specific poet personality, by using the structure and the words of the poems of the specific poet personality."

Zasa however does not teach a poet personality. Rather, Zasa taught to use words favored by a genre not a poet personality. Indeed Zasa felt the problem to complicated: "(also, building a generator that made strict 17-syllable haiku would have been considerably more difficult.)" One does not know from Zasa how to build a poet personality. Zasa was clearly not describing a computer program that allowed a user to choose among different poet personalities. The secondary references likewise fail to provide this motivation or teaching.

Claim 21

Claim 21 limits claim 3 and recites instructions to automatically compose words of text and examine weights represented in the linked data structures to avoid counts of words in the

linked data structure that would tend to repeat identical words from pre-existing compositions given a start word in an analyzed composition to avoid plagiarism.

Appellant contends that this feature is neither described nor suggest by and combination of references. None of the references suggest the problem of plagiarism and indeed for claims 15 and 30 (which contain analogous limitations) the examiner had indicated that those claims were allowable over the cited art.

Claims 13, 19 and 28

For the purposes of this appeal only, claims 13, 19 and 28 stand or fall together. Claim 28 is representative of this group of claims.

Claim 28 further limits claim 27, and recites the features of instructions to analyze at least one pre-existing composition to generate linked data structures and generate a new composition from the linked data structures by using the linked data structures to locate the user input word in the linked data structure and determine words that follow it in the linked data structure

The examiner contends that:

> **In reference to claims 13, 19, and 28, the universe of words disclosed by Zasa is "mindfully populated" and weighted so that the haikus composed by "The Angelic Beat Haiku Machine" resemble those of Beat Poets, as is shown above. For example, Zasa states that the words that the Beat Poets favored are stressed, such as night, road, angel, eternity, and tea. Thus it is understood that an analysis of one or more pre-existing compositions, i.e. poems, from these Beat Poets is necessitated in order to learn these favored words and populate the universe of words. The universe of words is considered a data structure. As is well known in the art, such a structure is generally linked in order to facilitate traversal of the structure. Thus the combination of Zasa, Minkler, and Gavron, as described above, teaches analyzing at least one pre-existing composition to generate linked data structures. Minkler further teaches that words based on a user input word, such as those relating to gender, are selected within such a data structure to generate a poem (see column 3, line 41 - column 4, line 3). The universe of words, being linked, facilitates this task. Consequently, the combination of Zasa, Minkler, and Gavron, as described above, also teaches generating a new composition from the data structures, i.e. universe of words, by using the data structures to locate the user input word in the data structure to determine words based on the user input word that follow the user input word in the linked data structure.**

Appellant contends that the examiner now is merely speculating on what could have been discussed by Zasa and has been guided by Appellant's specification and claims in an attempt to furnish missing teachings in Zasa. There is no basis for the examiner to conclude that: "Thus it

is understood that an analysis of one or more pre-existing compositions, i.e. poems, from these Beat Poets is necessitated in order to learn these favored words and populate the universe of words."

As Appellant reads Zasa, Zasa taught that: "So I built the templates, which were more complicated to design than you might think, and mindfully populated (and weighted) the universe of words that the computer draws from." Zasa however fails to suggest to analyze at least one pre-existing composition to generate linked data structures or generate a new composition from the linked data structures by using the linked data structures to locate the user input word in the linked data structure and determine words that follow it in the linked data structure.

Zasa, as understood, is directed to his own "mindful" population to "skew" a database. Zasa does not describe whether the database contains data structures, whether the data structures are linked or whether a flat file system is used. Again, Appellant contends that the examiner is merely speculating on what the reference could have contained, but that is an improper basis for finding that the claim is obvious.

Claims 14, 20 and 29

For the purposes of this appeal only, claims 14, 20 and 29 stand or fall together. Claim 29 is representative of this group of claims.

Claim 29 further limits claim 27 by reciting that the linked data structures include 1-grams, bigrams, trigrams, and quadrigrams. The examiner again deals in speculation where the examiner contends that:

> **"For example, Zasa states that the words that the Beat Poets favored are stressed, such as night, road, angel, eternity, and tea. It is understood that one of ordinary skill in the art may extend these teachings such that the universe of words not only includes words that the Beat Poets favored, but also various phrases, or common permutations of phrases, that the Beat Poets favored. Consequently, the universe of words, which is a linked data structure as shown above, may include 1-grams, bigrams, trigrams, and quadrigrams."**

Zasa being totally void of any suggest to use linked data structures would certainly not for the basis for use of 1-grams, bigrams, trigrams, and quadrigrams data structures.

(2) Claims 5, 16, 24 and 31 are patentable over the combination of Zasa, Minkler and Gavron, and also over U.S. Patent 6,091,411, Straub et al.

Claims 5, 16, 24 and 31

For the purposes of this appeal only, claims 5, 16, 24 and 31 stand or fall together. Claim 31 is representative of this group of claims.

Claim 31 further limits the computer program product of claim 27 by instructions to select an interface that includes a screen saver interface option to open a dialogue box having an option to provide a link to a dialogue box having information on upgrading.

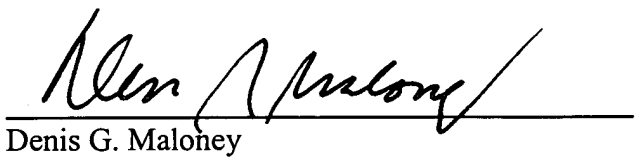
Claim 31 is allowable over the combination of references since the references do not suggest the features of the base claim and that because the secondary reference Straub is directed to enhancements of themes applied to a graphical user interface, e.g., wallpaper, icons, mouse pointer graphic and animations and the like. While Straub also mentions enhancements to a screen saver that is to enhance the operation of the screen saver and not to upgrade the product.

Conclusion

Appellant submits, therefore, that claims 1-14 and 16-29, 31 and 32 are allowable over the art of record and the examiner erred and should be reversed.

Respectfully submitted,

Date: 3/9/06



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Appendix of Claims

1. A method of generating a computer-implemented poetry screen saver, comprises:

loading an author analysis model;

randomly selecting a seed word from the author analysis model;

completing a poem based on the seed word using the author analysis model; and

displaying the poem, as a screen saver, on an output device.

2. The method of claim 1 wherein the output device is a display device.

3. An automatic composition system comprising:

a central processing unit;

a random access memory;

a computer readable medium;

a display unit; and

a computer program product residing on the computer readable medium and executed by the central processor for automatically composing text based on a seed word that appears on the display unit during a screen saver mode.

4. The system of claim 3 wherein the text is poetry.

5. The method of claim 1 further comprising:

selecting an interface that includes a screen saver interface option to open a dialogue box having an option to provide a link to a dialogue box having information on upgrading.

6. The method of claim 1 further comprising:

selecting an interface that includes a screen saver interface option to open a dialogue box having an option to provide basic screen saver options including at least one of length of time to wait before initiating screen saver mode and, which corner of the screen moving a pointer device to point to will initiate screen saver mode.

7. The method of claim 1 further comprising:

selecting an interface that includes a screen saver interface option to select from available poet personalities

8. The method of claim 7 further comprising:

selecting an interface that includes a screen saver interface option to open a dialogue box to activate a selected order of using the poet personalities to generate the poem.

9. The method of claim 8 wherein the order is random or a user specified sequence.

10. The method of claim 1 further comprising:

selecting an interface that includes a screen saver interface option to set styles of presentation of the poems including at least one of background color, font color, font size, scrolling characteristics, and save options.

11. A method comprising:

automatically composing text based on a user input word that appears on a display unit of a system during a screen saver mode entered into by the system.

12. The method of claim 11 wherein the text is a poem, and the method further comprises:

selecting an interface that includes a screen saver interface option to open a dialogue box to activate a selected order of using poet personalities to generate the poem.

13. The method of claim 11 further comprising:

analyzing at least one pre-existing composition to generate linked data structures; and

generating a new composition from the data structures by using the data structures to locate the user input word in the linked data structure and determine words based on the user input word that follow the user input word ~~it~~ in the linked data structure.

14. The method of claim 13 wherein the linked data structures include 1-grams, bigrams, trigrams, and quadrigrams.

Claim 15 was objected to as dependent on a rejected base claim but containing allowable subject matter.

16. The method of claim 11 further comprising:

selecting an interface that includes a screen saver interface option to open a dialogue box having an option to provide a link to a dialogue box having information on upgrading.

17. The method of claim 11 further comprising:

selecting an interface that includes a screen saver interface option to open a dialogue box having an option to provide basic screen saver options including at least one of length of time to wait before initiating screen saver mode and, which corner of the screen moving a pointer device to point to will initiate screen saver mode.

18. The method of claim 1 wherein the generated text is poetry and the method further comprises:

selecting an interface that includes a screen saver interface option to select from available poet personalities to generate the poem.

19. The system of claim 3 further comprising instructions to:

analyze at least one pre-existing composition to generate linked data structures; and

generate a new composition from the data structures by using the data structures to locate a user input word in the linked data structure and determine words that follow it in the linked data structure.

20. The system of claim 19 wherein the data structures include 1-grams, bigrams, trigrams, and quadrigrams.

21. The system of claim 3 further comprising instructions to:

automatically compose words of text and examine weights represented in the linked data structures to avoid counts of words in the linked data structure that would tend to repeat identical words from pre-existing compositions given a start word in an analyzed composition to avoid plagiarism.

22. The system of claim 3 further comprising:

selecting an interface that includes a screen saver interface option to select from available poet personalities to generate the poem.

23. A computer program product residing on a computer readable medium for generating a computer-implemented poetry screen saver, comprises instructions to cause a computer to:

load an author analysis model;

randomly selecting a seed word from the author analysis model;

complete a poem based on the seed word; and

display the poem, as a screen saver, on an output device.

24. The computer program product of claim 23 further comprising instructions to:

select an interface that includes a screen saver interface option to open a dialogue box having an option to provide a link to a dialogue box having information on upgrading.

25. The computer program product of claim 23 further comprising instructions to:

select an interface that includes a screen saver interface option to open a dialogue box having an option to provide basic screen saver options including at least one of length of time to wait before initiating screen saver mode and, which corner of the screen moving a pointer device to point to will initiate screen saver mode.

26. The computer program product of claim 23 further comprising instructions to:

select an interface that includes a screen saver interface option to select from available poet personalities

27. A computer program product residing on a computer readable medium, comprises instructions to cause a computer to:

automatically compose text, based on a user input word, that appears on a display unit of a system during a screen saver mode entered into by the system.

28. The computer program product of claim 27 further comprising instructions to:

analyze at least one pre-existing composition to generate linked data structures; and

generate a new composition from the linked data structures by using the linked data structures to locate the user input word in the linked data structure and determine words that follow it in the linked data structure.

29. The computer program product of claim 28 wherein the linked data structures include 1-grams, bigrams, trigrams, and quadrigrams.

Claim 30 was objected to as dependent on a rejected base claim but containing allowable subject matter.

31. The computer program product of claim 27 further comprising instructions to:

select an interface that includes a screen saver interface option to open a dialogue box having an option to provide a link to a dialogue box having information on upgrading.

32. The computer program product of claim 27 further comprising instructions to:

select an interface that includes a screen saver interface option to select from available poet personalities to generate the poem.

Evidence Appendix

None

Related Proceedings Appendix

None